

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)

This Document Relates to:)

MDL No. 1:13-md-2419-RWZ)

1:14-cv-12978-RWZ: Bender v. Insight Health Corp., *et al.*)

**INSIGHT HEALTH CORP.'S ANSWER TO PETITION FOR FINAL
APPROVAL OF DISTRIBUTIONS TO STATUTORY BENEFICIARIES OF
VIRGINIA WRONGFUL DEATH CLAIM PURSUANT TO VA. CODE § 8.01-55**

Respondent, Insight Health Corp. (“Respondent”), by counsel, responds to the Petition for Final Approval of Distribution to Statutory Beneficiaries of Virginia Wrongful Death Claim Pursuant to Va. Code § 8.01-55 (Sept. 16, 2016) (D.E. 3094) (“Petition”), as follows:

1. The Parties entered a “Settlement and Release Agreement” (“Agreement”) of February 12, 2015, which incorporated “First Amended Insight Claims Resolution Facility Procedures” (“Procedures”).

2. By order dated July 9, 2015, in the above-styled case, this Court approved the Agreement and the Procedures, and found the resolution of this wrongful death claim and the allocation process in the Procedures governing this claim to be fair and reasonable under the circumstances of the decedent’s death and in the best interests of the decedent’s estate and the statutory beneficiaries. *See* Order (July 9, 2015) (D.E. 2111) (approving settlement in *Bender v. Insight Health Corp., et al.* (1:14-cv-12978-RWZ)).

3. The Court’s Order of July 9, 2015, further instructed the Parties to present a “Future Distribution Order” to the Court for consideration before any distribution could be made to the decedent’s statutory beneficiaries from their respective shares of the gross amount

attributed to them under the Procedures. *Id.* at 4. The Petition now before the Court is Petitioner's request for entry of the Future Distribution Order in this case as directed by the Court through its Order of July 9, 2015.

4. On January 13, 2016, the Parties filed a Joint Motion to Confirm Satisfaction of Conditions to Global Settlement Agreement of Virginia Cases (Jan. 13, 2016) (D.E. 2562). The Court entered an Order on the Parties' Joint Motion to Confirm Satisfaction of Conditions to Global Settlement finding that the terms and conditions set forth in the Agreement had been satisfied. *See* D.E. 2583 (Jan. 13, 2016) (noting endorsement and entry of order granting Motion for Order (D.E. 2562)).

5. Petitioner, Robert Dana Bender, filed his Petition on September 16, 2016. Significantly, Petitioner states that "[t]here are no known known liens associated with the settlement proceeds." Pet., ¶ 5.

6. In reliance on Petitioner's representations in the Petition, including the statement that that there are no known liens, Respondent does not oppose the Petition and joins Petitioner in requesting the Court's final approval of the proposed distributions.

7. Respondent incorporates by reference Insight Health Corp.'s Answer to Petition for Final Approval of Compromise Settlement of Virginia Wrongful Death Claim Pursuant to Va. Code § 8.01-55 (July 3, 2015) (D.E. 2045), which Insight filed in response to the initial Petition for Approval of Compromise Settlement of Virginia Wrongful Death Claim Pursuant to Va. Code § 8.01-55 (June 26, 2015) (D.E. 2021).

WHEREFORE, Respondent, Insight Health Corp., by counsel, respectfully requests that the Court enter an order approving the Petition, granting the proposed distributions therein, and dismissing this case with prejudice.

Date: September 26, 2016

Respectfully Submitted

INSIGHT HEALTH CORP.

By: /s/ Leo J.M. Boyd
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CERTIFICATE OF SERVICE

I certify that, on September 26, 2016, this document was filed through the CM/ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Leo J.M. Boyd
Leo J.M. Boyd

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